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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/288,943	04/09/1999	STEVE INGISTOV	ARCO-25.195	8048

4249 7590 02/24/2003

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EXAMINER

KWON, JOHN

ART UNIT	PAPER NUMBER
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3747

DATE MAILED: 02/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/288,943

Applicant(s)

INGISTOV, STEVE

Examiner

John T. Kwon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 32-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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## DETAILED ACTION

1. The indicated allowability of claims 32-41 is withdrawn in view of the newly discovered reference(s) to Atkinson (US 5,308,088). Rejections based on the newly cited reference(s) follow.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bouchard (US 5,630,590). Bouchard discloses a brush seal (60) mounted on a non-rotating member (22) in a gas turbine engine. The brush seal comprises a ring holder (52), a multiplicity of bristle members (66) extending radially inwardly from the holder, and means for fastening the holder (54). The only difference between the prior art reference and the instant invention is the clearance dimension of the bristle at the ambient temperature. It would have been considered to be an obvious choice of mechanical design because one skilled in this art is familiar with basic fluid

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mechanic and normally has the laboratory test facilities. To optimize or select the suitable clearance would be within the ability of ordinary skilled in this art.

4. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson (US 5,308,088). Atkinson discloses a brush seal (20) mounted on a non-rotating member (12) in a gas turbine engine. The brush seal comprises a ring holder (14), a multiplicity of bristle members (20) extending radially inwardly from the holder, and means for fastening the holder (13).

No  
good  
rejection

Moreover, Atkinson discloses a safety margins of the clearance of the brush seal (Col. 2, line 54 - Col. 3, line 9). The difference between the prior art reference and the instant invention is the clearance dimension of the brush seal at the ambient temperature. It would have been considered to be an obvious choice of mechanical design because one skilled in this art is familiar with basic fluid mechanic and normally has the laboratory test facilities. To optimize or select the suitable clearance would be within the ability of ordinary skilled in this art. While Atkinson does not disclose the specific location of the brush seal in the gas turbine engine, the seal can be located at the last stage of the compressor since the installation of the seal in the compressor stage is known in the art.

***Claim Rejections - 35 USC § 135 (b)***

5. Claims 32-40 are rejected under 35 U.S.C. 135(b) as not being made prior to one year from the date on which U.S. Patent No. 5,630,590 was granted.

5/20/97

X

No good  
7/15/97

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The copied claims were submitted on the filing date of the instant application (April 9, 1999) which is not within one year of the issue date of Patent No. 5,630,590 (issue date: May 20, 1997). The proposed interference by the applicant is not granted unless the applicant claimed "substantially the same subject matter" within one year of the issue date of the patent. See MPEP 2307. In order for an application claim to be for "substantially the same subject matter" as a patent claim, it must contain all the material limitations of the patent claim. *Parks v. Fine*, 773 F.2d 1577, 227 USPQ 432 (Fed. Cir. 1985), modified, 783 F.2d 1036, 228 USPQ 677 (1986). The fact that the application claim may be broad enough to cover the patent claim is not sufficient. In *re Frey*, 182 F.2d 184, 86 USPQ 99 (CCPA 1950). If none of the claims which were present in the application, or in a parent application, prior to expiration of the one-year period meets the "substantially for the same subject matter" test, the claims presented or identified as corresponding to the proposed count should be rejected under 35 U.S.C. 135(b). In *re McGrew*, 120 F.3d 1236, 43 USPQ2d 1632 (Fed. Cir. 1997).

Accordingly, a brush seal mounted on the refurbished component in tandem with the knife edge seal in a refurbished gas turbine engine component did not claimed within one year. Such claimed limitation appears in the application 09/288,943 filed April 9, 1999, which is more than one year of US Patent No. 5,630,590 was granted.

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### *Response to Arguments*

6. Applicant's arguments filed March 6, 2001 (applicant's appeal brief) have been fully considered but they are not persuasive.

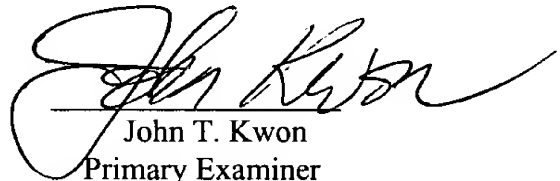
The applicant argues that the limitation of a brush seal mounted on the refurbished component in tandem with the knife edge seal in a refurbished gas turbine engine component supported in the applicants specification. Examiner agreed that such limitations is supported in the specification. However, **such limitation has not claimed until the application 09/288,943 was filed on April 9, 1999, which is more than one year after US Patent No. 5,630,590 was granted.**

} - incorrect  
08/892,738

### *Contact Information*

Any inquiry concerning this communication should be directed to Examiner Kwon at telephone number (703) 308-1046 and facsimile numbers (703) 308-7766. The examiner can normally be reached on Monday thru Friday from 8:30 AM to 5:00 PM.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

  
John T. Kwon  
Primary Examiner  
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February 4, 2003